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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

ROBERT HUNTER BIDEN, an
individual,

Plaintiff,

vs.

PATRICK M. BYRNE, an individual,

Defendant.

Case No.: 2:23-cv-09430-SVW-PD
Judge: Honorable Stephen V. Wilson
Courtroom: "10A"

Complaint Filed: November 8, 2023

**DEFENDANT'S SUR REPLY IN
SUPPORT OF HIS MOTION IN
LIMINE NO. 1 TO EXCLUDE
EXPERT TESTIMONY OR
OPINION BY PLAINTIFF'S
WITNESSES; MEMORANDUM OF
POINTS AND AUTHORITIES IN
SUPPORT THEREOF**

Date: July 21, 2025
Time: 3:00 p.m.
Courtroom: "10A"

1.

**DEFENDANT'S SUR REPLY IN SUPPORT OF HIS MOTION IN LIMINE NO. 1; MEMORANDUM OF POINTS
AND AUTHORITIES IN SUPPORT THEREOF**

TO ALL PARTIES AND THEIR ATTORNEY'S OF RECORD:

Defendant Patrick Byrne hereby files his sur reply in support of his motion to exclude any expert testimony from Plaintiff's witnesses.

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Plaintiff's concessions warrant granting this motion precisely because Plaintiff's own "Supplemental Memorandum of Contentions of Fact and Law," filed on June 30, 2025, alleges that he has suffered "severe emotional distress" on pg. 14. Plaintiff also discusses the alleged harassment he has endured from the Jewish community due to Defendant's statements on the same page. He further identifies the kind of evidence that would or should be brought in if the Court denies Plaintiff's Motion in Limine No. 1, in which he asks the Court to exclude evidence of reputational and emotional distress evidence. In a footnote at the bottom of the page, he claims he is dropping all claims related for economic and reputational damages.

Plaintiff should not be permitted to bring in testimony or evidence of his reputation or of his alleged emotional distress, whether through himself or his witnesses. By granting this motion, the Court will conclusively foreclose Plaintiff saying one thing now and then later bringing in this evidence. Should the Court deny this motion, Plaintiff, who still has Dr. Alyssa Bledin identified as a witnesses on the most current filed version of the Joint Witness List, will be able to call her and present evidence of his emotional distress damages, while attempting to preclude Defendant from presenting counter evidence or alternatively by not allowing him to present his expert witness to testify on this claim by Plaintiff.

II. LEGAL ARGUMENT

A. Defendant's Motion's Should be Granted.

Plaintiff's supplemental opposition relies on *United States v Heller*, 551 F.3d 1108 (9th Cir. 2009), for the proposition that the mootness of a motion in

1 limine is grounds to deny the Motion. That case involved the waiver of the
2 defendant's waiver of a jury trial. (*Id.* at 1111.) The Court found that the motion
3 was moot because the trial would proceed as a bench trial, making the motion
4 superfluous after the waiver. (*Id.* at 1112.) That is not the case here. Defendant
5 has not waived his right to a jury trial, so pre-trial rulings on these motions are
6 important to prevent the presentation of inadmissible evidence to the jury.

7 Plaintiff also replies on an in-chambers ruling on a motion in limine in the
8 *Matrix Int'l Textile, Inc., v Monopoly Textile, Inc.*, 2017 WL2929377, (C.D. Cal.
9 May 14, 2017) for the same proposition. However, the Court in that case stated at
10 the end of the ruling that the ruling was not meant for publication and that it was
11 not intended for inclusion or submission in online databases, like Westlaw or
12 Nexus. As such, it is not binding authority on this Court.

13 The evidence that is the subject to the motion is inadmissible because
14 Plaintiff concedes he will no longer present that evidence or seek those damages,
15 during trial rendering the evidence irrelevant. Thus, exclusion of the evidence,
16 and ensuring that the Plaintiff will be held to his withdrawal of the evidence
17 which is the subject of the motion is firm and cannot be changed later by Plaintiff
18 changing his mind.

19 Further, Plaintiff has not met and conferred with Defense counsel to submit
20 a stipulation and order to the Court related to this issue. There is also no current
21 Court order that would preclude Plaintiff from changing his mind and presenting
22 this evidence. If the Court grants this motion, the issue will be foreclosed, and
23 Plaintiff will be bound by his concessions.

24 For these reasons, and for those reasons stated in the moving and reply
25 papers, it is respectfully requested that the Court grant this motion.

26 **III. CONCLUSION**

27 Based on the foregoing, Defendant respectfully requests that this Court grant
28 this Motion. Plaintiff must be held to his concessions that in fact this motion

1 should be granted.

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3 Dated: July 7, 2025

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5 By: /s/ Michael C. Murphy, Esq.

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10 Attorneys for Defendant, Patrick
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